

Sixth Appellate District

San Jose, California

MONDAY, JUNE 25, 2007

H029922 PEOPLE v. TAMBOURA

The clerk of the superior court is ordered to correct the abstract of judgment to show the trial court orally imposed a 14-year term of imprisonment in state prison and forward a corrected copy to the Department of Corrections and Rehabilitation. In all other respects, the judgment is affirmed. (not published)
(Premo, J.; We concur: Rushing, P.J., Elia, J.)
Filed June 25, 2007

H030320 PEOPLE v. WOODS

The judgment is affirmed. (not published)
(Elia, J.; We concur: Rushing, P.J., Premo, J.)
Filed June 25, 2007

H030100 PEOPLE v. GONZALES

The judgment is reversed, and the matter is remanded to correct the sentence and for the limited purpose of permitting appellant to move to withdraw his plea with the assistance of appointed counsel. If the motion is denied or is not made within 60 days from the date the remittitur is filed, the trial court shall correct the sentence to 10 years consecutive to 15-years to life and reinstate the judgment. (not published)
(Elia, J.; We concur: Rushing, P.J., Premo, J.)
Filed June 25, 2007

H029894 PEOPLE v. KNIGHT

The judgment is affirmed. (not published)
(Bamattre-Manoukian, Acting P.J.; We concur: McAdams, J., Duffy, J.)
Filed June 25, 2007

TUESDAY, JUNE 26, 2007

H027362 PEOPLE v. RODRIGUEZ

The judgment of the superior court is affirmed. (not published)
(Premo, Acting P.J.; We concur: Elia, J., Bamattre-Manoukian, J.)
Filed June 26, 2007

Sixth Appellate District

San Jose, California

Tuesday, June 26, 2007 (continued)

H029739 MONTEREY CO. DEPT. OF CHILD SUPPORT SERVICES v.
ARRELLANO

H029823 MONTEREY CO. DEPT. OF CHILD SUPPORT SERVICES v.
ARRELLANO

The March 22, 2005 order enforcing payment of child support arrears and the December 2005 order denying relief under section 473, subdivision (b), are affirmed. (not published)
(Elia, J.; We concur: Rushing, P.J., Premo, J.)
Filed June 26, 2007

H030167 PEOPLE v. WHALEY

The appeal is dismissed as moot. (published)
(Bamattre-Manoukian, Acting P.J.; I concur: Duffy, J.; Concurring opinion by McAdams, J.)
Filed June 26, 2007

H030014 PEOPLE v. CHAVEZ

The judgment is ordered modified to reflect that the sentences on count 1, conspiracy, and count 2, possession for sale of methamphetamine are stayed pursuant to Penal Code section 654. The judgment is also modified to reduce the restitution fine from \$6,000 to \$2,200. As so modified, the judgment is affirmed. The superior court is ordered to send a certified copy of the corrected abstract of judgment to the Department of Corrections. (not published)
(Elia, J.; We concur: Rushing, P.J., Premo, J.)
Filed June 26, 2007

H029315 PEOPLE v. WHICKER

The judgment is reversed. (not published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)
Filed June 26, 2007

Sixth Appellate District

San Jose, California

Tuesday, June 26, 2007 (continued)

H030166 In re JULIUS L.; D.F.C.S v. DEVON L., et al.

The judgment is reversed. The juvenile court is directed to (1) vacate its order terminating appellants' parental rights (§§ 366.26, 395), and (2) order the Department to provide ICWA notice to the designated agent for the United Keetoowah Band at the address listed in the most recent Federal Register. If, following such notice, the United Keetoowah Band determines that the minor is an Indian child, or if other information is presented showing the minor is an Indian child as defined by ICWA, the juvenile court shall conduct a new review hearing in conformity with all the provisions of ICWA. If, however, the United Keetoowah Band determines that the minor is not an Indian child, or if no response is received indicating the minor is an Indian child, the juvenile court shall reinstate the vacated orders. (not published)

(Rushing, P.J.; We concur: Premo, J., Elia, J.)

Filed June 26, 2007

H029568 PEOPLE v. CHAMBERS

The judgment is affirmed. (not published)

(Rushing, P.J.; We concur: Premo, J., Elia, J.)

Filed June 26, 2007

WEDNESDAY, JUNE 27, 2007

H029737 PEOPLE v. LOPEZ

The judgment is reversed and remanded to the trial court for the limited purpose of resentencing. Consistent with this opinion, *Blakely*, and *Cunningham*, the trial court shall resentence defendant with respect to the first degree burglary conviction. (not published)

(Premo, Acting P.J.; We concur: Elia, J., McAdams, J.)

Filed June 27, 2007

H030956 PEOPLE v. WERNER

The judgment is affirmed. (not published)

(Premo, J.; We concur: Rushing, P.J., Elia, J.)

Filed June 27, 2007

H030281 PEOPLE v. LEVELL

The judgment is affirmed. (not published)

(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., Duffy, J.)

Sixth Appellate District

San Jose, California

Wednesday, June 27, 2007 (continued)

H030926 PEOPLE v. RICHARDSON

The judgment is affirmed. (not published)
(Mihara, Acting P.J.; We concur: McAdams, J., Duffy, J.)
Filed June 27, 2007

H027528 PEOPLE v. BRADFORD

The judgment is reversed, and the matter is remanded for resentencing. The trial court is directed to strike the conviction for count 4. (not published)
Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., McAdams, J.)
Filed June 27, 2007

H029885 LING v. ZEE

The judgment is affirmed. (not published)
(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., McAdams, J.)
Filed June 27, 2007

H030336 PEOPLE v. MISAALEFUA

The judgment is affirmed. (not published)
(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., Duffy, J.)
Filed June 27, 2007

THURSDAY, JUNE 28, 2007

The Court met in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Bamattre-Manoukian, Acting P.J.; Mihara, J.; Duffy, J.; and S. Nasson, Deputy Clerk.

H029143 PEOPLE v. VINSON

Cause called and argued by Christine Levin appearing for Appellant and by Gregg Zywicke, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H029911 PEOPLE v. ALVAREZ

Cause called and argued by Jeanine Strong appearing for Appellant and by Christopher Grove, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H029471 PEOPLE v. LE GRAND

Cause called and argued by Eric Multhaup appearing for Appellant and by Donna Marie Provenzano, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

Sixth Appellate District

San Jose, California

Thursday, June 28, 2007 (continued)

H030515 CHOPRA v. HELIO SOLUTIONS, INC., et al.

Cause called and argued by Jeffery Lurner appearing for Appellant and by Dwight Donovan appearing for Respondents. Cause ordered submitted.

Manoukian, J. leaves the bench. McAdams, J. takes the bench.

H029686 EMERDINGER v. TENG, et al.

Cause called and argued by Thomas Burton appearing for Appellant and by Daniel Maguire appearing for Respondents. Cause ordered submitted. Court is in recess until the 1:30 p.m. calendar.

The Court reconvened at 1:30 p.m. in its courtroom at 333 West Santa Clara Street, Suite 1060, San Jose, California. Present: Bamattre-Manoukian, Acting P.J.; McAdams, J.; Duffy, J.; and Jane Valdez Flor, Deputy Clerk.

H029919 PEOPLE v. MEJIA

Cause called and argued by Katera E. Rutledge appearing for Appellant and by Christina Vom Saal, Deputy Attorney General, appearing for Respondent. Cause ordered submitted.

H030624 E-FAB, INC. v. ACCOUNTANTS, INC. SERVICES

Cause called and argued by Christian B. Nielsen appearing for Appellant and by Benjamin Emmert appearing for Respondent. Cause ordered submitted.

Bamattre-Manoukian, Acting P.J. leaves the bench and Mihara, Acting P.J. takes the bench.

H029603 BENNION, et al. v. COUNTY OF SANTA CLARA

Cause called and argued by Charles John Moll III appearing for Appellant and by Marcy L. Berkman appearing for Respondent. Cause ordered submitted.

H030410 SCHLAFLY v. SCHLAFLY

Cause called and argued by Roger Schlafly appearing in propria persona and by Julie Schlafly appearing in propria persona. Cause ordered submitted. Court is adjourned.

H030046 PEOPLE v. MOFFETT

The judgment is affirmed. (not published)
(Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., Duffy, J.)

Filed June 28, 2007

Sixth Appellate District

San Jose, California

Thursday, June 28, 2007 (continued)

H030142 PEOPLE v. JOHNSON

The judgment is affirmed. (not published)
(Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., McAdams, J.)
Filed June 28, 2007

H030218 PEOPLE v. NGUYEN

The judgment is affirmed. (not published)
(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., Duffy, J.)
Filed June 28, 2007

H027847 PEOPLE v. TARANGO

The judgment is reversed and the matter remanded for the limited purpose of resentencing in light of *Cunningham*. (not published)
(Elia, J.; We concur: Rushing, P.J., Premo, J.)
Filed June 28, 2007

H031261 PEOPLE v. RUIZ

The judgment is affirmed. (not published)
(Duffy, J.; We concur: Mihara, Acting P.J., McAdams, J.)
Filed June 28, 2007

H030327 DAWSON v. FRIEDMAN, et al.

The judgment is affirmed. (not published)
(Bamattre-Manoukian, Acting P.J.; We concur: McAdams, J., Duffy, J.)
Filed June 28, 2007

FRIDAY, JUNE 29, 2007

H030306 PEOPLE v. TRAN

By the Court:

On the court's own motion, the submission order in the above-entitled matter dated May 4, 2007, is hereby vacated. The court by separate letter issued June 28, 2007, has requested supplemental briefing from the parties. The cause will be resubmitted upon completion of supplemental briefing.

Dated: June 29, 2007 Bamattre-Manoukian, Acting P.J.

H030059 LYLES, et al. v. STATE OF CALIFORNIA, et al.

The judgment is affirmed. (not published)
(Premo, J.; We concur: Rushing, P.J., Elia, J.)
Filed June 29, 2007

Sixth Appellate District

San Jose, California

Friday, June 29, 2007 (continued)

H030083 LEE v. SHAPELL INDUSTRY OF NORTHERN CALIFORNIA, INC.

The motion to dismiss the appeal is granted. The appeal is hereby dismissed as untimely. (not published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)
Filed June 29, 2007

H029675 PEOPLE v. SHELLOCK

The judgment is affirmed. (not published)
(McAdams, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara, J.)
Filed June 29, 2007

H030715 PEOPLE v. RAMIREZ

The judgment is affirmed. (not published)
(Premo, J.; We concur: Rushing, P.J., Elia, J.)
Filed June 29, 2007

H030555 LEE v. R&L BROSAMER, INC., et al.

The motion to dismiss the appeal is granted as to the appeal from the order denying the motion for new trial. The motion to dismiss the appeal from the order denying the motion for judgment notwithstanding the verdict and review of exhibit is denied. The clerk of this court shall reinstate the briefing schedule forthwith. The arguments on appeal shall be limited in a manner consistent with this opinion. (not published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)
Filed June 29, 2007

H030339 PEOPLE v. GUSTAVO O.

The dispositional order is affirmed. (not published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)
Filed June 29, 2007

H028798 PEOPLE v. NGUYEN

The judgment is reversed. (published)
(McAdams, J.; I concur: Rushing, P.J.; Dissenting opinion by Mihara, J.)
Filed June 29, 2007

Sixth Appellate District

San Jose, California

Friday, June 29, 2007 (continued)

H029887 PEOPLE v. BELTRAN

The judgment is reversed. The case is remanded to the trial court for a determination whether defendant's request to discharge his retained attorney should have been granted based on the relevant factors of the timeliness and disruptive potential of defendant's request, and whether such request would prejudice defendant. If the trial court denies this request, the trial court shall reinstate the original sentence. If the trial court grants this request, defendant will be entitled to proceed with a new attorney. (not published)

Rushing, P.J.; We concur: Premo, J., Elia, J.)

Filed June 29, 2007

H029461 PEOPLE v. RUBIO

The judgment is affirmed. (not published)

(Premo, J.; We concur: Rushing, P.J., Elia, J.)

Filed June 29, 2007

H031035 PEOPLE v. CHAMBERS

The judgment is affirmed. (not published)

(McAdams, J.; We concur: Bamattre-Manoukian, Acting P.J., Duffy, J.)

Filed June 29, 2007

H030430 In re LINDA D.; MONTEREY CO. DSES v. PATRICIO S.

By the Court*:

Appellant's petition for rehearing is denied.

Filed: June 29, 2007

*Before Bamattre-Manoukian, Acting P.J., McAdams, J. and Duffy, J.